APPENDIX.

As the Florida Supreme Court has construed all the Florida statutes cited with the exception of the parts of the City Charter, Chapter 16692, Special Acts of 1933, the parts of that act cited are stated below:

Sec. 7-D authorizes the City of Stuart to acquire, sell and convey real and personal property for the best interest of the City.

Sec. 7-G as amended by Chapter 23, 544 Laws of 1945:

> The City shall have and may exercise all other powers which under the constitution and laws of Florida it will be competent for this charter to specifically enumerate.

Sec. 108:

> Authorizes the City to issue tax certificates for delinquent taxes and such tax certificates shall be subject to assignment or transfer.

In view of the fact the 1953 legislature validated the sale and assignment of the final decree and tax certificates based thereon under Chapter 32180, Special Acts of 1933, it is hardly necessary that such power be especially set out in its charter. However the Florida Supreme Court has consistently held that a municipality can see and assign its tax certificates.

Sec. 194.43 authorizes the Clerk of the Circuit Court to issue tax deeds for lands sold for nonpayment of municipal taxes.

Hyland v. *Rodney*, 195 So. 574:

> "Equity will not enjoin issuance of tax deed to holder of tax certificate until landowner offers to pay, repay or reimburse such holder to extent of amount paid by him to clear land of tax liens as well as the amount paid for certificate with interest thereon."

Under Sec. 173, the *in rem* proceedings which the City adopted in this case the landowner must not only pay the taxes delinquent with interest thereon but his part of the court costs and attorney's fees.

No one paid any delinquent taxes before the land was sold and no injunction would be issued or could be lawfully issued to restrain the sale even if such an action had been filed and notice of the application given. Florida Rules of Ethics forbids such practice.

Rule 3.9, Florida Rules of Procedure:

> In all cases of application for injunction, the judge to whom presented, before granting the same, shall be satisfied sufficient notice of the application shall have been given to the party sought to be enjoined and of the time and place where the motion is to be made, and no order for such injunction shall be granted without such notice unless it is manifest to the judge from the sworn allegations of the complaint that injury apprehended will be done if an immediate remedy is not afforded whereupon he may grant instanter an order restraining the party complained of until the hearing or further order of court.

But no sworn complaint was filed and no notice given the appellant of any such application and there is no provision for any such procedure.

As stated in *Hyland* v. *Rodney*, 195 So. 574, injunction will not issue to enjoin the issuance of a tax deed unless

the landowner offers to pay or repay or reimburse the holder of the tax certificate the amounts of the tax certificates and interest thereon.

As a matter of law and fact no such injunction was necessary nor did the court have any jurisdiction to grant it as all the appellee had to do was pay or redeem the outstanding tax certificates before the sale.